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State Bar Court of California Hearing Department Los Angeles ALTERNATIVE DISCIPLINE PROGRAM			PUBLIC MATTER
Counsel For The State Bar Mia R. Ellis, DTC State Bar of California 1149 S. Hill St. Los Angeles, CA 90015-2299 (213) 765-1380 Bar # 228235	Case Number(s): 11-O-10368; 11-O-14801	For Court use only <div style="text-align: center;"> FILED NOV 16 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent Jacob D. Chang 1370 Brea Blvd., Ste. 217 Fullerton, CA 92835 (714) 738-5098 Bar # 174476	Submitted to: Assigned Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW		
In the Matter of: JACOB D. CHANG Bar # 174476 A Member of the State Bar of California (Respondent)	ALTERNATIVE DISCIPLINE PROGRAM <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 12, 1994.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 5.386(D)(2) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, excluding the order.



- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☒ State Bar Court case # of prior case Supreme Court order number 191105 (State Bar case numbers 07-O-13888 et al.)
 - (b) ☒ Date prior discipline effective June 19, 2011
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: 6103, 6068(o)(3), 4-100(B)(4), 6068(l), 3-110(A), 3-700(D)(2), 6068(m)
 - (d) ☒ Degree of prior discipline 60 days actual suspension, two years stayed suspension, and two years probation
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

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(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent has displayed cooperation in stipulating to facts and conclusions of law.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

(Do not write above this line.)

In the Matter of: Jacob D. Chang	Case Number(s): 11-O-10368 and 11-O-14801
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Financial Conditions

a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Agustin Antonio Zelaya	\$15,680	July 6, 2010
Yvette Adams	\$8346	October 1, 2010

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than two months after Respondent's acceptance of the State Bar Court's Contract and Waiver for Participation in the ADP and according to the schedule below.

b. Installment Restitution Payments

- ☒ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Agustin Antonio Zelaya	\$300	monthly
Yvette Adams	\$300	monthly

- ☒ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: JACOB D. CHANG

CASE NUMBER(S): 11-O-10368; 11-O-14801

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND
STIPULATED FACTS AND CULPABILITY**

The parties hereby waive any variance between the Notice of Disciplinary Charges ("NDC") filed on October 17, 2011 in case number 11-O-10368 and the facts and conclusions of law contained in this stipulation.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 11-O-10368 (Complainant: Agustin Antonio Zelaya)

FACTS:

1. On May 1, 2009, Agustin Antonio Zelaya, Jesus Transito Zelaya, and Wilson A. Zelaya (collectively the "Zelayas"), employed Respondent to represent them against their mortgage lender, Bank of America, for violations of consumer finance laws, including to file a lawsuit and litigate the lawsuit on their behalf. The Zelayas paid Respondent a total of \$15,680 in legal fees between on or about May 1, 2009, and July 6, 2010.
2. Between May 1, 2009, and October 14, 2010, the only work Respondent performed on behalf of the Zelayas was to send Bank of America a purported Qualified Written Request under the Real Estate Settlement Procedures Act ("RESPA") and a Notice of Rescission of the Zelaya's loans under the Truth In Lending Act ("TILA"), on or about September 19, 2009.
3. From July 31, 2009, to July 30, 2010, Wilson Zelaya repeatedly requested Respondent update him with the status of the litigation and requested meetings with Respondent. Each time, Respondent failed to provide any meaningful responses to Wilson Zelaya or made representations to him that the case was being actively litigated.
4. On August 19, 2010, the Zelayas mailed a letter to Respondent by certified mail, which Respondent received. In the letter the Zelayas requested an accounting of the fees they had paid and a status report on the case including the docket number of the case, the court where the case was filed, and a hearing date.
5. On October 14, 2010, Respondent filed a lawsuit on behalf of the Zelayas in Los Angeles County Superior Court, *Agustin Antonio Zelaya v. Bank of America*, BC447498 ("the lawsuit"). On that same day, Respondent met with the Zelayas and provided them with a copy of the complaint he had filed. The Zelayas terminated Respondent's services.

6. On January 28, 2010, Respondent sent an e-mail to Wilson Zelaya stating that the case was being "actively litigated." At the time, Respondent was not "actively litigating" a case on behalf of the Zelayas. The statement was false, and Respondent was grossly negligent in not knowing, that it was false at the time he made it.
7. On February 4, 2010, Respondent sent an e-mail to Wilson Zelaya stating that a hearing would be set within thirty-days to schedule mediation, discovery, and trial dates. The statement was false, and Respondent was grossly negligent in not knowing that it was false at the time he made it. No hearing to schedule mediation, discovery, and trial dates could have been set within 30 days since Respondent had not yet filed a lawsuit on behalf of the Zelayas and no defendant had yet been served.
8. On June 14, 2010, Respondent sent an e-mail to Wilson Zelaya stating that the "litigation case is ongoing and still pending." The statement was false, and Respondent was grossly negligent in not knowing, that it was false at the time he made it. No litigation case was ongoing and pending as of on or about June 14, 2010.
9. Respondent never provided the Zelayas with an accounting of the fees they paid him.
10. Respondent did not earn all of the \$15,680 in legal fees the Zelayas paid him. Respondent has never returned any of the unearned fees to the Zelayas.

CONCLUSIONS OF LAW:

By failing to perform any substantive legal services or file a lawsuit on behalf of the Zelayas for seventeen months, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

By misrepresenting that status of the case to Wilson Zelaya, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

By failing to provide the Zelayas with an accounting of the fees they paid him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in violation of Rules of Professional Conduct, rule 4-100(B)(3).

By failing to return the unearned portion of legal fees the Zelayas paid him, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 11-O-14801 (Complainant: Yvette M. Adams)

FACTS:

1. On June 19, 2009, Yvette Adams ("Adams") employed Respondent to pursue litigation against her lender, Option One, for violations in the Truth and Lending Act.
2. Adams paid Respondent \$2,200 per month from June 2009 through October 2009, for a total of \$11,000.

3. Respondent recommended that Adams file bankruptcy.
4. On September 17 2009, Respondent filed a Chapter 7 bankruptcy on behalf of Adams. This bankruptcy was dismissed on November 25, 2009 for failure to attend the 341(a) hearing.
5. On December 7, 2009, Respondent filed another Chapter 7 bankruptcy petition on behalf of Adams. The case was dismissed on December 29, 2009 for failure to file schedules and /or plan.
6. On January 5, 2010, Respondent filed a civil suit in Los Angeles Superior Court entitled *Yvette Adams v. Option One Mortgage Corp et al.*, case number BC429172 for violations of the federal truth in lending act.
7. On February 5, 2010, the defendants filed a motion to remove the matter to federal court. The motion was granted. The case was removed to federal court.
8. On February 10, 2010, the defendants filed a motion to dismiss the complaint for the plaintiff's failure to state a claim upon which relief can be granted.
9. On March 8, 2010, the court granted the motion to dismiss with leave to amend.
10. On March 19, 2010, Respondent filed a first amended complaint.
11. On May 3, 2010, the civil suit was dismissed with prejudice after the defendant filed another motion to dismiss for failure to state a claim upon which relief could be granted. The case was remanded to Los Angeles Superior Court.
12. On June 1, 2010, defendants filed a Notice of Demurrer to the first amended complaint. Respondent filed a second amended complaint for injunctive relief, which the defendants moved to strike. Respondent subsequently filed an opposition to the demurrer.
13. On December 15, 2010, the Court filed an order sustaining the defendants' demurrer and judgment of dismissal without prejudice. If the matter was refiled, the court would waive the filing fee.
14. In February 2011, Respondent contacted Adams and recommended that she apply for a loan modification. She agreed and completed the paperwork.
15. On June 19, 2011, Adams received a notice to vacate her property.
16. On June 22, 2011, Adams sent Respondent a letter requesting a copy of her file, effectively terminating Respondent's employment. Respondent received the request but did not respond.
17. Respondent did not provide legal services of value and did not earn the fees paid by Adams.
18. Respondent did not provide Adams with an accounting of the fees paid.
19. On October 17, 2011, the State Bar sent Respondent a letter to his membership records address regarding the complaint submitted by Adams. In the letter the State Bar asked Respondent to provide a written response as to the allegations by October 31, 2011. Respondent received the letter but did not provide a response.

20. On or about November 1, 2011, the State Bar sent Respondent another letter to his membership records address regarding the complaint submitted by Adams. In the letter the State Bar asked Respondent to provide a written response by November 14, 2011. Respondent received the letter but did not respond by November 14, 2011.
21. On November 17, 2011, Respondent sent the State Bar investigator an email asking for an extension to reply to the State Bar.
22. On November 17, 2011, the Investigator gave Respondent until November 28, 2011 to file a response. Respondent received the email but did not file a response.

CONCLUSIONS OF LAW:

By failing to perform any substantive legal services of value on behalf of Adams, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

By failing to provide Adams with an accounting of the fees she paid him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in violation of Rules of Professional Conduct, rule 4-100(B)(3).

By failing to respond to Adams's request and return her file, Respondent violated Rules of Professional Conduct, rule 3-700(D)(1).

By failing to return the unearned portion of legal fees Adams paid him, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of Rules of Professional Conduct, rule 3-700(D)(2).

By failing to provide a written response to the State Bar regarding the Adams complaint, Respondent failed to respond to a State Bar investigation in violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was March 8, 2012.

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In the Matter of: JACOB D. CHANG	Case number(s): 11-O-10368; 11-O-14801
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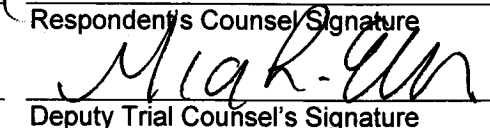
SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

<u>4/6/2012</u> Date	 Respondent's Signature	<u>JACOB D. CHANG</u> Print Name
<u>4/6/12</u> Date	 Respondent's Counsel Signature	<u>Print Name</u>
<u>4/6/12</u> Date	<u>Mia R. Ellis</u> Deputy Trial Counsel's Signature	<u>MIA R. ELLIS</u> Print Name

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In the Matter of: JACOB D. CHANG	Case Number(s): 11-O-10368; 11-O-14801
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ALTERNATIVE DISCIPLINE PROGRAM ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulation as to facts and conclusions of law is APPROVED.
- ☒ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All court dates in the Hearing Department are vacated.

1. On page 2, paragraph B.(1)(b), "June 9, 2012" should be deleted, and in its place should be inserted "June 18, 2011."

2. On page 5, delete the "X" in the second box under paragraph a. and all the language next to this box.

3. On page 6, delete the CTA School language and insert the following language:

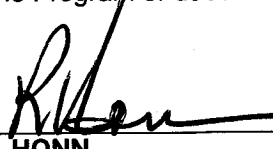
"Within one year after the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, and passage of the test given at the end of that session. If respondent has already provided proof to the court of attendance at and passage of the test given at the end of Ethics School Client Trust Accounting School during his period of participation in the Alternative Discipline Program, respondent need not again comply with this condition. Otherwise, respondent must comply with this condition as set forth above."

4. On page 8, numbered paragraph 10, line 1, "all" should be "any".

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

11/16/12


RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 16, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

in a sealed envelope for collection and mailing on that date as follows:

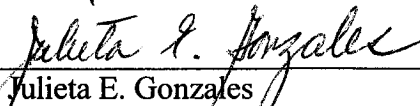
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SCOTT JOHN DREXEL ESQ
1325 HOWARD AVE #151
BURLINGAME, CA 94010

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 16, 2012.



Julieta E. Gonzales
Case Administrator
State Bar Court